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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2002-1003

13 NANCY YVETTE TOMLINSON  
a.k.a. NANCY WETTE TOMLINSON  
a.k.a. NANCY YVETTE PARKER  
14 a.k.a. NANCY YVETTE JENKINS  
a.k.a. NANCY JANKINS  
15 2348 N. Sterling Avenue, Apt 351  
San Bernardino, CA 92404

**A C C U S A T I O N**

16 Vocational Nurse License No. VN 165261

17 Respondent.  
18

19 Complainant alleges:  
20

21 **PARTIES**

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
23 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational  
24 Nursing and Psychiatric Technicians, Department of Consumer Affairs (Bureau).

25 2. On or about November 19, 1993, the Bureau issued Vocational Nurse  
26 License No. VN 165261 to Nancy Yvette Tomlinson a.k.a. Nancy Wette Tomlinson a.k.a. Nancy  
27 Yvette Parker a.k.a. Nancy Yvette Jenkins a.k.a. Nancy Jankins (Respondent). The Vocational  
28 Nurse License was in full force and effect at all times relevant to the charges brought herein and

1 will expire on June 30, 2009, unless renewed.

## 2 JURISDICTION

3 3. This Accusation is brought before the Bureau, under the authority of the  
4 following laws. All Section references are to the Business and Professions Code unless  
5 otherwise indicated.

## 6 STATUTORY PROVISIONS

7 4. Section 118, subdivision (b), provides, in pertinent part, that the expiration  
8 of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during  
9 the period within which the license may be renewed, restored, reissued or reinstated. Under  
10 Section 2892.1, the Bureau may renew an expired license at any time within four years after the  
11 expiration.

12 5. Section 490 provides, in pertinent part, that the Bureau may suspend or  
13 revoke a license when it finds that the licensee has been convicted of a crime substantially related  
14 to the qualifications, functions or duties of a licensed vocational nurse.

15 6. Section 2875 provides, in pertinent part, that the Bureau may discipline the  
16 holder of a vocational nurse license for any reason provided in Article 3 (commencing with  
17 section 2875) of the Vocational Nursing Practice Act.

18 7. Section 2878 states, in pertinent part:

19 "The Board (Bureau) may suspend or revoke a license issued under this chapter  
20 [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
21 following:

22 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

23 . . . .

24 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or  
25 abetting the violating of, or conspiring to violate any provision or term of this chapter.

26 . . . .

27 "(f) Conviction of a crime substantially related to the qualifications, functions,  
28 and duties of a licensed vocational nurse, in which event the record of the conviction shall be



1 conclusive evidence of the conviction. . . ."

2           8.       Section 2878.5 states, in pertinent part:

3           In addition to other acts constituting unprofessional conduct within the meaning  
4 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person  
5 licensed under this chapter to do any of the following:

6           "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
7 licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
8 administer to another, any controlled substance as defined in Division 10 of the Health and  
9 Safety Code, or any dangerous drug as defined in Section 4022.

10           . . . .

11           "(c) Be convicted of a criminal offense involving possession of any narcotic or  
12 dangerous drug, or the prescription, consumption, or self-administration of any of the substances  
13 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is  
14 conclusive evidence thereof.

15           . . . .

16           9.       Section 2878.6 states:

17           "A plea or verdict of guilty or a conviction following a plea of nolo contendere  
18 made to a charge substantially related to the qualifications, functions and duties of a licensed  
19 vocational nurse is deemed to be a conviction within the meaning of this article. The board may  
20 order the license suspended or revoked, or may decline to issue a license, when the time for  
21 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
22 granting probation is made suspending the imposition of sentence, irrespective of a subsequent  
23 order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw  
24 his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
25 dismissing the accusation, information or indictment."

26           10.       Section 4022 prohibits the dispensing or furnishing of a dangerous drug or  
27 dangerous device, which is any drug or device that is unsafe for self-use in humans or animals,  
28 without a prescription or as legally authorized.

1           11. Health and Safety Code section 11590 provides, in pertinent part, that any  
2 person who is convicted of defined offenses of the Health and Safety Code, or any person who is  
3 discharged or paroled from a penal institution where he or she was confined because of the  
4 commission of any such offense, shall within 30 days of his or her coming into any county or  
5 city, or city and county in which he or she resides or is temporarily domiciled for that length of  
6 time, register with the chief of police of the city in which he or she resides or the sheriff of the  
7 county if he or she resides in an unincorporated area.

8           12. California Code of Regulations, title 16, section 2521 states, in pertinent  
9 part:

10           “For the purposes of denial, suspension, or revocation of a license pursuant to  
11 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or  
12 act shall be considered to be substantially related to the qualifications, functions or duties of a  
13 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a  
14 licensed vocational nurse to perform the functions authorized by his license in a manner  
15 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be  
16 limited to those involving the following:

17           . . . .

18           “(c) Violating or attempting to violate, directly or indirectly, or assisting in or  
19 abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2  
20 of the Business and Professions Code.

21           . . . .

22           “(f) Any crime or act involving the sale, gift, administration, or furnishing of  
23 “narcotics or dangerous drugs or dangerous devices” as defined in Section 4022 of the Business  
24 and Professions Code.”

25           13. Section 125.3 provides, in pertinent part, that the Bureau may request the  
26 administrative law judge to direct a licensee found to have committed a violation or violations  
27 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28 enforcement of the case.



1                                    **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

2                    14.      Cocaine, and any cocaine base, is a narcotic drug according to Health and  
3      Safety Code section 11019(e). It is a Schedule I controlled substance, as designated in Health  
4      and Safety Code section 11054(f)(1), and a Schedule II controlled substance, as designated in  
5      Health and Safety Code section 11055(b)(6). It is categorized as a dangerous drug according to  
6      Business and Professions Code section 4022.

7                                    **FIRST CAUSE FOR DISCIPLINE**

8                                    (Conviction of Substantially Related Crime)

9                    15      Respondent is subject to disciplinary action under Sections 490 and 2878,  
10     subdivision (f), as defined in California Code of Regulations, title 16, section 2521, in that on or  
11     about May 1, 2001, Respondent was convicted of a crime substantially related to qualifications,  
12     functions or duties of a licensed vocational nurse which to a substantial degree evidences her  
13     present or potential unfitness to perform the functions authorized by her license in a manner  
14     consistent with the public health, safety, or welfare, as follows:

15                                   **FELONY DRUG POSSESSION (COCAINE) - 2001**

16                    a.      On or about May 1, 2001, in a criminal proceeding entitled *People of the*  
17     *State of California v. Nancy Wette Tomlinson a.k.a. Nancy Yvette Parker a.k.a. Nancy Yvette*  
18     *Jenkins* in Riverside County Superior Court, Hemet Judicial District, Case No. HEF004208,  
19     Respondent was convicted on her plea of *guilty* to violating Health and Safety Code section  
20     11350 (possession of controlled substance, to wit, cocaine base), a felony. The Court ordered  
21     Respondent to 180 days jail time, three (3) years probation, register as a Health and Safety Code  
22     section 11590 drug offender, and pay attorney fees, court costs, restitution, fines and penalties.

23                    b.      The circumstances of the conviction are that on or about April 13, 2001, in  
24     reply to a WE TIP request of a welfare check on an elderly man living with his son at a residence  
25     with reported drug activity, Hemet Police Department officers responded, searched the residence,  
26     and found Respondent with two others inside of the home. The officers, while trying to locate  
27     the elderly man, found Respondent hiding inside a bedroom closet holding approximately 5.0

28     ///

1 grams of cocaine base, subsequently tested, weighed and booked into evidence. The officers  
2 arrested Respondent.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Obtain / Possess a Controlled Substance - Cocaine)

5 16. Respondent is subject to disciplinary action under Section 2878,  
6 subdivision (a), as defined in Section 2878.5, subdivision (a), on the grounds of unprofessional  
7 conduct, in that on or about April 13, 2001, Respondent obtained and / or possessed  
8 approximately 5.0 grams of cocaine base, a controlled substance and dangerous drug, without a  
9 valid prescription. Complainant refers to, and by this reference incorporates, the allegations set  
10 forth in paragraphs 14(a)(b), inclusive, above, as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Conviction of a Drug Crime)

13 17. Respondent is subject to disciplinary action under Section 2878,  
14 subdivision (a), as defined in Section 2878.5, subdivision (c), on the grounds of unprofessional  
15 conduct, in that on or about May 1, 2001, Respondent was convicted of a criminal offense  
16 involving possession of cocaine base, a controlled substance and dangerous drug. Complainant  
17 refers to, and by this reference incorporates, the allegations set forth in paragraphs 14(a)(b) and  
18 15, inclusive, above, as though set forth fully.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct)

21 18. Respondent is subject to disciplinary action under Section 2878,  
22 subdivisions (a) and (d), in that on or about April 13, 2001, and on or about May 1, 2001,  
23 Respondent committed acts of unprofessional conduct in violation of the Vocational Nursing  
24 Practice Act. Complainant refers to, and by this reference incorporates, the allegations set forth in  
25 paragraphs 14 - 17, inclusive, above, as though set forth fully.

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1 this case, pursuant to Business and Professions Code section 125.3;

2 3. Taking such other and further action as deemed necessary and proper.

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4 DATED: August 22, 2008

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8 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
9 Executive Officer  
10 Bureau of Vocational Nursing and Psychiatric Technicians  
11 Department of Consumer Affairs  
12 State of California  
13 Complainant

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